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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INDEMNITY INSURANCE COMPANY OF NORTH AMERICA,	:	ECF CASE
	:	
Plaintiff,	:	08 Civ. 3412 (DAB)
	:	
- against -	:	COMPLAINT
	:	
AMERICAN AIRLINES, INC.;	:	
	:	
Defendant.	:	

Plaintiff, through its undersigned attorney, alleges as follows for its complaint against defendant:

1. Plaintiff Indemnity Insurance Company of North America is a corporation organized under the laws of, and with its principal place of business in, the state of Pennsylvania, and sues herein as subrogated insurer of Universal Leaf Tobacco with respect to the claim referred to in the annexed Schedule A and Digene Corporation with respect to the claim referred to in the annexed Schedule B. Both schedules are incorporated herein by reference. Plaintiff also sues for and on behalf of the shippers, consignees and owners of the cargo as their interests may appear.

2. Defendant American Airlines, Inc. is believed to be a corporation organized under the laws of, and with its principal place of business in, certain of the fifty states.

3. This Court has jurisdiction over the person of the defendant, who conducts business in the State of New York and the United States as a whole.

FIRST CAUSE OF ACTION

4. Plaintiff repeats and realleges the allegations in paragraphs 1 through 4 of this complaint.

5. This Court has federal question subject matter jurisdiction pursuant to 28 USCA § 1331. There is also pendent, ancillary and supplemental jurisdiction as to certain aspects of the claim in suit.

6. This cause of action arises under a treaty of the United States, specifically the Convention for the Unification of Certain Rules Relating to International Transportation by Air, 49 Stat. 3000, T.S. No. 876 (1934), reprinted in note following 49 U.S.C. Sec. 1502 (the "Warsaw Convention"), and certain amendments, protocols and successor treaties thereto in effect in the country of origin and destination at the time of shipment. Alternatively, this cause of action is governed by the Convention for Unification of Certain Rules for International Carriage by Air, Done at Montreal on 28 May 1999, reprinted in S. Treaty Doc. No 106-45, 1999 WL 33292734 (2000) (entered into force Nov. 4, 2003) ("Montreal Convention").

7. This action involves damage and loss to the shipments, which are described more fully in the annexed Schedules A, and B, which are incorporated herein by reference.

8. Said damage and loss was the result of defendant's fault, recklessness, wanton neglect, and willful misconduct in that defendants, their agents, servants, connecting carriers, subcontractors, terminal operators, truck drivers, warehousemen and

employees failed to properly handle, protect and care for the cargo in question and in that defendant had no proper and effective procedures to receive, handle, carry, transfer and care for the cargo

9. By reason of the aforesaid plaintiff, and those on whose behalf it sues, has sustained damages in the amount of \$55,892.44, no part of which has been paid although duly demanded.

10 Plaintiff sues herein on its own behalf and as agent and trustee for and on behalf of anyone else who may now have or hereafter acquire an interest in this action.

SECOND CAUSE OF ACTION

11. Plaintiff repeats and realleges the allegations in paragraphs 1,2,3,5,7,8,9, and 10 of this complaint.

12 When the cargo was received into the care, custody and control of defendant, or those entities acting on its behalf, the cargo was in good order and condition. However, defendant failed to make delivery of the entire cargo at the intended destination in the same order and condition. Instead the cargo was in damaged and depreciated condition at the time of delivery.

13. Therefore, defendant, as common carrier, bailee, and/or warehouseman, is liable to plaintiff for the claimed damage and loss to the cargo in suit.

THIRD CAUSE OF ACTION

14. Plaintiff repeats and realleges the allegations in paragraphs 1, 2, 3, 5, 7, 8, 9 and 10 of this complaint.

15. The damage to the cargo in suit was caused in whole or in part by defendant's fundamental breaches of contract and their reckless failure to provide the

agreed accessorial services relating to specialized temperature-controlled care, handling, and storage.

WHEREFORE, plaintiff demands judgment against defendant:

- (a) for the sum of \$55,892.44;
- (b) for prejudgment interest at the rate of 9% per annum;
- (c) for the costs and disbursements of this action;
- (d) for such other and further relief as this Court deems proper and just.

Date: New York, New York
April 4, 2008

LAW OFFICES,
DAVID L. MAZAROLI

s/David L. Mazaroli

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SCHEDULE A

Subrogated Insurer:	Indemnity Insurance Company of North America
Insured:	Universal Leaf Tobacco
Air Waybill No.:	001-29593502
Dated:	July 18, 2006
Origin:	Santo Domingo
Destination:	Miami, Florida
Commodity:	Tobacco
Claim Amount	\$14,917.44
INAMAR File	JY06J0152603
DLM File:	7G-1438

SCHEDULE B

Subrogated Insurer:	Indemnity Insurance Company of North America
Insured:	Digene Corporation
Air Waybill No.:	001-34149183
Dated:	June 15, 2007
Origin:	Washington
Destination:	Monterrey, Mexico
Commodity:	Reagents
Claim Amount	\$40,975.00
INAMAR File	JY07J015709-1
DLM File:	8G-1623